

State Board of Embalmers and Funeral Directors

**December 7, 2011
Hampton Inn & Suites
4600 Summit
Kansas City, MO 64112**

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 9:08 a.m.

Roll Call

Board Members Present

D. Todd Mahn, Chair
James Reinhard, Vice Chair
John McCulloch, Secretary
Gary Fraker, Member
Martin Vernon, Member
Archie Camden, Public Member

Staff Present

Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Tabatha Lenzini, Administrative Assistant
Sharon Euler, Division Legal Counsel

Approval of Open Agenda

A motion was made by Gary Fraker and seconded by James Reinhard to approve the Open Agenda. Motion carried Martin Vernon, John McCulloch, Archie Camden voting in favor with no votes in opposition.

Approval of Open Minutes

A motion was made by Martin Vernon and seconded by Gary Fraker to approve the following open minutes with the amendment to include clarification the of the legal citations:

- June 14-16, 2010 Board Meeting
- May 18, 2011 Board Meeting
- September 27-29, 2011 Board Meeting
- October 3, 2011 Examination Committee
- October 6, 2011 Mail Ballot
- November 4, 2011 Conference Call
- November 21, 2011 Examination Committee

Motion carried with James Reinhard, John McCulloch, and Archie Camden voting in favor. Archie Camden recused from voting on the June 14-16, 2010, May 18, 2011 and November 4, 2011 minutes.

Executive Director Report

Sandy Sebastian gave an overview on the following –

- Update on Preneed Renewals
- Update on Funeral Establishment Renewals
- New licensees issued since last report
- Ceased/closed licenses since last report
- Disciplinary actions since last report
- Gov Delivery email notification system purchased by the Department
- New licensure system being considered by Division

Licensure System

Following discussion a motion was made by James Reinhard and seconded by Gary Fraker to approve the estimated \$26,000 expenditure, which is over a 2 year period and already budgeted in projections as IT, for the board's proportionate share of the new licensure system being considered by the Division of Professional Registration and the boards/commissions within. Motion carried with Martin Vernon, John McCulloch, Archie Camden voting in favor with no votes in opposition.

Legal Counsel Report

Sharon Euler reported the following to the board –

- Donna Garret retired and Joann Howard has replaced her as Special Deputy Receiver
- Forever Network's civil suite is moving slowly, the criminal is proceeding also, they hope to have a trial date set after the first of the year
- Buescher matter has been set for status hearing

Electronic Death Certificate System - DHSS

John McCulloch gave an update on the meeting that he and Sandy Sebastian attended with Harold Kirby and Peter Lyskowski who are with the Department of Health and Senior Services (DHSS) regarding the electronic death certificate system. DHSS expressed interest in hearing feedback about concerns with the system, indicated that they had identified approximately 2,000 doctors that would be consistent users of the system and were working on training them as well as others. They shared that they were preparing an online training so that information could be far reaching. They also discussed the paper process that would still be in place and the modifications that would be implemented to ensure accuracy of records and how that might impact turn around time in obtaining certified death certificates.

Web Casting

At a previous meeting the board asked that staff research the possibilities of web casting the board's meetings. Sandy Sebastian gave an update indicating that we have the capability to do web casting in house at no fee which could include audio/video, audio only, could be broadcast live or delayed. It was also shared that there are subscription services we could be explored that would open up other options such as interactive communication between those participating via the web. Chairman D. Todd Mahn stated this was not something the board was going to pursue at this time.

Alkaline Hydrolysis Presentation

Dean Fisher, Director of the David Geffen School of Medicine at UCLA, Donated Body Program gave a presentation on Alkaline Hydrolysis.

Closed session

A motion was made by Archie Camden and seconded by Gary Fraker to go in to closed for #2. Motion carried with Martin Vernon, James Reinhard, and John McCulloch voting in favor with no votes in opposition. D. Todd Mahn not present for the vote and Jim Reinhard was serving as chair of the meeting during the motion and vote.

Draft Rule – “What Constitutes A Preneed Contract”

The board reviewed and discussed the draft rule “What constitutes a preneed contract”. Sharon Euler shared some examples of concerns the financial examiners are experiencing when conducting financial examinations. Following the board’s discussion there were comments and input from the members of the public in attendance.

A motion was made by Archie Camden and seconded by John McCulloch to end the discussion on the topic. Motion carried with Gary Fraker, Martin Vernon and James Reinhard voting in favor with no votes in opposition.

A motion was made by John McCulloch to not pursue the rule. Motion died for lack of a second.

A motion was made by Archie Camden to accept the draft. Motion died for lack of a second.

A motion was made by Martin Vernon and seconded by James Reinhard voted to send back to staff to do further work on what constitutes a preneed contract. Motion carried with John McCulloch, D Todd Mahn voting in favor. Gary Fraker and Archie Camden voted in opposition of the motion.

Public Comments Regarding Financial Examinations

Don Otto, MFDEA, commented for John Cozean, who was not present, on his financial examination regarding the concerns that the letter received identified contracts as non compliant that were correct under the old law.

Kevin Simpson, president of Phillips Funeral Home, spoke on the examination that was done regarding his seller in which he was told he was deficient on 44 contracts relating to insurance assignments. Sandy Sebastian spoke to Mr. Simpson in general terms about what he might want to do and explained that sellers are being sent copies of the final examinations and being provided an opportunity to respond, which may include that they disagree with the findings and suggested that if there was disagreement that any supporting documentation regarding how the conclusion was drawn be included with the response.

Brad Speaks stated he is on week 16 of his examinations.

Closed session

A motion was made by Gary Fraker and seconded by John McCulloch to move to closed session for #1, 2, 7, 8, 9. Motion carried with Jim Reinhard, Martin Vernon and Archie Camden voting in favor.

Adjournment

A motion was made by Jim Reinhard and seconded by John McCulloch to adjourn the meeting. Motion carried with Gary Fraker, Martin Vernon and Archie Camden voting in favor with no votes in opposition 5:00 p.m.

Executive Director: Sandy Sebastian

Approved by the Board on: 4-24-25-2012

MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11